

Statement of Kenneth D. Rosenman, MD, FACPM, FACE  
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at Michigan State University

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Thank you for the opportunity to speak to the Committee today. My name is Kenneth Rosenman. I am a licensed physician in the State of Michigan and a Professor at Michigan State University. For the past 18 years we at Michigan State University have been compiling the occupational disease reports to the State (approximately 15,000 to 20,000 reports a year). I wish to share with you information about asbestosis and silicosis in the State and also share with you the sections in House Bill No. 5851 that are in conflict with the standard of medical care in the State. In the past I have examined and given opinions on patients for both plaintiffs' and defendants' attorneys. I am here today because of my concern about this legislation and I am not receiving compensation from either plaintiffs' or defendants' attorneys.

The number of Michigan residents diagnosed with asbestos-related x-ray changes in the State has ranged from 800 to 5,000 per year since 1991, with the number of individuals being hospitalized for asbestosis increasing from 120 to almost 400 per year. The number of Michigan residents with silicosis has decreased from 60 to 80 a year in the late 1980's to 30-40 per year since 1998. As part of my responsibilities at MSU, I have been reviewing these occupational disease reports over the last 18 years. The criteria set out in House Bill No. 5851 conflicts with the standard of medical care in Michigan and in fact many people admitted to the hospital with asbestosis in Michigan would not meet this proposed law's criteria for asbestosis.

#### Provisions of the Proposed Bill that Conflict with the Standard of Medical Care in Michigan

- Requiring a 1/1 degree of profusion for the diagnosis of asbestosis and 2/1 if the individual has obstruction on their pulmonary function testing is arbitrary and has no basis in the medical literature. This conflicts with the American Thoracic Society consensus diagnosis of asbestosis and the standard of medical care in Michigan.
- Requiring diffuse pleural thickening of B1 width and extent is arbitrary and has no basis in the medical literature.

- Requiring quality 1 radiograph when both quality 2 and quality 3 radiographs are considered “acceptable” for classification by the committee that developed the rating system.
- Excluding board certified occupational medicine physicians from diagnoses related to asbestos-related cancer. This would exclude the experts in asbestos related disease from all the medical schools in the state.
- Requiring the diagnosis of non-malignant asbestosis to be present for a patient’s cancer to be related to asbestos. This requirement conflicts with recommendations from U.S. National Toxicology Program (NTP), U.S. National Institute for Occupational Safety and Health (NIOSH), U.S. Environmental Protection Agency (EPA) and international organizations such as the World Health Organization’s International Agency for Research on Cancer (IARC).
- Placing arbitrary time limits for minimum years of asbestos exposure that don’t reflect actual working conditions and for which there is no consensus in the medical literature to support.
- Defining a “smoker” as someone who has used any tobacco product within the immediate 15 years preceding diagnosis. This would include chewing tobacco and cigars and other forms of tobacco that have not been associated with asbestos-related disease.

In summary, this legislation is in conflict with the current practice of medicine in the State of Michigan and national and international recommendations for diagnosing asbestos-related disease. Tracking data from the state show that reports of silicosis are minimal, 20-40 per year and that reports of asbestosis are currently about 2,200 per year. I do not know what percent of these individuals file a legal suit but I do know that less than half file a workers’ compensation claim. What this means is that private insurance, Medicare and Medicaid are inappropriately paying the health care costs. The proposed legislation goes well beyond excluding “frivolous

claims” and would exclude many individuals with significant impairment from asbestosis or silicosis from pursuing claims, including individuals with sufficient severity to require hospitalization. In addition, the proposed legislation does not address the inappropriate shifting of asbestos-related health care costs to both private and government funded insurance plans such as Medicaid. A bill that truly addressed the issue would ensure that individuals with uncontested asbestos-related disease, for example the 120 Michigan citizens who die each year from mesothelioma, would, at the minimum, be encouraged to file workers’ compensation claims; currently no more than one or two do so each year.